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**ATTORNEYS FOR A.M., A MINOR, BY AND
THROUGH HER GUARDIAN AD LITEM,
MARLON ANTONIO CASTRO CRUZ**

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

09/19/2024
Clerk of the Court
BY: AUSTIN LAM
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

A.M., a minor, by and through her
Guardian ad Litem, MARLON
ANTONIO CASTRO CRUZ,

Plaintiff,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT, ALICIA BLACKNELL,
DINORA CASTRO, MISSION
GRADUATES, JEREMY RENE JU
REYES MARTINEZ, and DOES 1
through 100,

Defendants.

Case No. **CGC-24-618267**

COMPLAINT FOR DAMAGES
[Unlimited Jurisdiction; Damages
sought exceed \$25,000]

- 1) Negligence
- 2) Intention Infliction of Emotional Distress
- 3) Negligent Hiring/Retention
- 4) Negligent Supervision/Failure to Warn
- 5) Battery
- 6) Sexual Battery
- 7) Failure to Perform Mandatory Duty
- 8) Bane Act
- 9) Calif. Ed. Code §§220 *et. seq.*
- 10) Ralph Act

DEMAND FOR JURY TRIAL

1 Plaintiff A.M., a minor, by and through her Guardian ad Litem, MARLON
2 ANTONIO CASTRO CRUZ, complains of Defendants, and each of them, and alleges
3 as follows:

4 **PARTIES**

5 1. At all relevant times herein mentioned, Plaintiff A.M. was a minor born
6 in 2011 residing in the City and County of San Francisco, State of California.

7 2. Concurrent with the filing of this action, MARLON ANTONIO CASTRO
8 CRUZ has petitioned this court to be appointed as A.M.'s Guardian ad Litem for
9 purposes of prosecuting her claims.

10 3. At all relevant times herein mentioned, Defendant SAN FRANCISCO
11 UNIFIED SCHOOL DISTRICT ("SFUSD") was a public entity within the meaning of
12 California Government Code sections 811.2, 900 et seq., duly incorporated and
13 operating under California law as a school district.

14 4. At all relevant times herein mentioned, Defendant ALICIA
15 BLACKNELL ("BLACKNELL") was employed by SFUSD as Principal of Everett
16 Middle School ("EMS") and was a resident of the City and County of San Francisco,
17 State of California. All actions alleged herein were taken by BLACKNELL in the
18 course and scope of her employment with SFUSD. At all relevant times herein
19 mentioned, BLACKNELL was responsible for the safety and supervision of SFUSD
20 students on the EMS campus.

21 5. At all relevant times herein mentioned, Defendant DINORA CASTRO
22 ("CASTRO") was employed by SFUSD as an Assistant Principal of EMS and was a
23 resident of the City and County of San Francisco, State of California. All actions
24 alleged herein were taken by CASTRO in the course and scope of her employment
25 with SFUSD. At all relevant times herein mentioned, CASTRO was responsible for
26 the safety and supervision of SFUSD students on the EMS campus.

27 6. At all relevant times herein mentioned, Defendant MISSION
28 GRADUATES was a non-profit corporation existing under the laws of the State of

1 California, with its principal place of business located at 3040 16th Street, San
2 Francisco, CA 94103.

3 7. At all relevant times herein mentioned, Defendant JEREMY RENE JU
4 REYES MARTINEZ ("REYES") was a natural person and resident of the City and
5 County of San Francisco, State of California. All actions alleged herein were taken by
6 REYES in the course and cope of his employment with MISSION GRADUATES. At
7 all relevant times herein mentioned, REYES was responsible for the safety and
8 supervision of SFUSD students on the EMS campus.

9 8. The true names, capacities, or involvement, whether individual,
10 corporate, governmental, or associate, of the defendants named hereinafter as DOE
11 1-100 are unknown to Plaintiff who therefore sues said defendants by fictitious
12 names. Plaintiff prays leave to amend this Complaint to show their true names,
13 capacities, or involvement when the same have been finally determined.

14 9. Plaintiff is informed and believes, and upon such information and belief
15 alleges, that each of the defendants designated herein as DOE 1-100 is negligently or
16 otherwise legally responsible in some manner for the events and happenings herein
17 referred to, and negligently or otherwise caused injuries and damages proximately
18 thereby to Plaintiff as is hereinafter alleged.

19 10. At all times herein mentioned, each and every of the defendants herein
20 was the agent, servant, partner, joint venturer, employee, and/or franchisee of each
21 of the other defendants, and each was at all times acting within the course and scope
22 of such agency, service, employment, joint venture, partnership, and/or franchise.

23 FACTS

24 11. In approximately January, 2023, A.M.'s guardians enrolled her in the
25 SFUSD and SFUSD assigned A.M. to the EMS campus as a sixth grade English
26 Learner student.

27 12. A.M. was 11 years old while attending sixth grade at EMS during the
28 2022-2023 school year and 12 years old while attending seventh grade at EMS during

1 the 2023-2024 school year.

2 13. After assigning A.M. to the EMS campus, Defendants BLACKNELL,
3 CASTRO and SFUSD referred A.M.'s guardians to its Beacon Program on the EMS
4 campus for before and after school care ("Beacon Program"). On information and
5 belief, SFUSD provides the funding, coordination and professional development for
6 the Beacon Program at EMS.

7 14. Defendants BLACKNELL, CASTRO and SFUSD made representations
8 to A.M.'s guardians about the Beacon Program including that the program served as
9 *"an extension of the school day"*, *"strengthened communication between the school and*
10 *family"* and *"nurtured the skills students need to succeed in school and life."* Based on
11 these representations, A.M.'s guardians enrolled her in the Beacon Program at EMS.

12 15. On information and belief, Defendant REYES was assigned to work
13 with students in the Beacon Program at EMS in approximately January, 2024. At
14 that time, REYES was on probation for crimes arising from an August, 2022 incident
15 wherein REYES allegedly assaulted a woman with a garden hoe and attacked a man
16 with a glass shard.

17 16. On information and belief, during the 2023/2024 school year at EMS,
18 A.M. was routinely subjected to REYES's predatory grooming behaviors and was
19 sexually harassed, molested and assaulted by REYES on the EMS campus during
20 school hours and before and after school in the Beacon Program. REYES told A.M.
21 she was his girlfriend, frequently texted A.M. and communicated with A.M. using
22 WhatsApp, Instagram, Facebook Messenger and other social media applications,
23 engaged in sexually inappropriate conversations with A.M., and told A.M. to send
24 him nude photographs. After repeatedly subjecting A.M. to this misconduct for
25 months, REYES lured A.M. to his apartment when she was on her way to school and
26 raped her.

27 17. On information and belief, the ongoing grooming behaviors REYES
28 displayed towards A.M. and other EMS students were open and obvious and known,

1 or reasonably should have been known, to Defendants BLACKNELL and CASTRO as
2 well as other SFUSD and MISSION GRADUATES employees and agents charged
3 with the care, supervision and education of A.M. and other students at EMS.

4 18. On information and belief, during the 2023/2024 school year, REYES
5 repeatedly sexually harassed, molested, assaulted and committed lewd acts with
6 A.M. and other students at EMS while students and REYES were unsupervised.

7 19. On information and belief, Defendants BLACKNELL and CASTRO, as
8 well as other employees and agents of SFUSD and MISSION GRADUATES, had
9 knowledge of information giving rise to a reasonable suspicion that REYES was
10 engaging in criminal activity with A.M. and other minor students on the EMS
11 campus but negligently failed to adequately monitor REYES or supervise students
12 and took no intervening action to stop the ongoing abuse, prevent recurrence or
13 ensure student safety.

14 20. On information and belief, prior to A.M. being sexually harassed,
15 molested, sexually assaulted and raped by REYES, Defendants BLACKNELL,
16 CASTRO, SFUSD, MISSION GRADUATES and their employees and agents had
17 knowledge of information giving rise to a reasonable suspicion that students were
18 being subjected to sexual harassment on the EMS campus and were at risk of being
19 molested, sexually assaulted and/or raped by REYES, but negligently failed to
20 adequately train or monitor REYES or supervise students and took no intervening
21 action to stop the ongoing abuse, prevent recurrence or ensure student safety.

22 21. On information and belief, Defendants BLACKNELL, CASTRO and
23 other SFUSD and MISSION GRADUATES employees and agents have a pattern and
24 practice of acting with deliberate indifference to the known sexual harassment of
25 students by staff and failing to adequately investigate claims of inappropriate
26 relationships between adult staff and students or respond to reports of sexual
27 harassment of students by staff.

28 22. As a result of Defendants BLACKNELL, CASTRO and other SFUSD

1 and MISSION GRADUATES employees' and agents' negligence and deliberate
2 indifference to Plaintiff's safety, their negligent supervision of students and
3 employees on campus during school hours and in their Beacon Programs, and their
4 negligent and deliberate indifference to investigating and reporting sexual
5 harassment, molestation and sexual assaults and other criminal activity occurring to
6 students on campus, Plaintiff was sexually harassed, molested, assaulted and raped
7 and deprived of her access to the educational opportunities and benefits to which she
8 was entitled.

9 **COMPLIANCE WITH TORT CLAIMS ACT**

10 23. Defendant SFUSD is, and at all relevant times herein mentioned was, a
11 public entity with the ability to own, operate, and control EMS. However, pursuant to
12 Govt. Code §905(m), Plaintiff is exempt from the requirement to present a
13 government tort claim to Defendant SFUSD. *See Coats v. New Haven Unified School*
14 *Dist.* (2020) 4 Cal.App.5th 415, 430-431.

15 24. Nevertheless, on or about July 1, 2024, a written claim for damages
16 setting forth the matters herein alleged was duly and regularly presented to
17 defendant SFUSD and filed on behalf of plaintiff A.M.

18 25. More than 45 days have passed since the filing of the above-described
19 claim without SFUSD taking relevant action and the claim was deemed denied by
20 operation of law. This complaint is therefore timely filed within the provisions of the
21 California Government Code.

22 **FIRST CAUSE OF ACTION**
23 **(Negligence)**
24 **(v. SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES, and DOES 1 -50)**

25 26. Plaintiff hereby refers to and incorporates by this reference each of the
26 allegations set forth above and makes them part of this cause of action as though
27 fully set forth herein.

28 27. Defendants SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES,
DOES 1 - 50, and their employees and agents owed a duty of care to A.M. due to the

1 “special relationship” between a school and its students. This duty includes
2 supervising and protecting A.M. and other minor students from potential dangers
3 such as being left alone with REYES unsupervised where he was permitted to
4 sexually groom, molest, sexually harass, assault and rape A.M.

5 28. Defendants SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES,
6 DOES 1-50, and their employees and agents, further breached the duty owed to A.M.
7 in violating applicable sections of the California Education Code, California Penal
8 Code Sections 11165 *et seq.* and SFUSD’s Board Policies and Administrative
9 Regulations which were intended to prevent staffs’ sexual harassment, molestation,
10 assault and rape of students, including but not limited to the following:

- 11 a. BP/AR 5141.4 Child Abuse Prevention and Reporting requires the
12 District to implement measures to prevent, identify and report
13 suspected child abuse and adequately train employees regarding their
14 mandated reporter duties;
- 15 b. BP/AR 5145.7 Sexual Harassment requires every sexual harassment
16 allegation involving a student to be thoroughly investigated and acted
17 upon and for the District to respond to harassment, prevent recurrence
18 and address ongoing effects on students;
- 19 c. BP/AR 5142 Student Supervision and Student Safety requires District
20 staff to be trained in supervisory techniques and the implementation of
21 measures to maintain safe school grounds and minimize the risk of
22 harm to students during school hours and in before and after-school
23 programs and to ensure District staff provides adequate student
24 supervision and promptly reports any dangerous persons/conditions;
- 25 d. BP/AR 4019.1 Staff/Student Boundaries requires staff to maintain
26 appropriate boundaries with students at all times, prohibits staff from
27 being alone with any student without a legitimate educational purpose,
28 prohibits staff from communicating with any student via social media or

1 contacting any student outside school by any means without including
2 the parent/guardian or principal;

3 e. BP 5148.2 Before/After School Programs requires SFUSD before and
4 after school programs to be operated in a supervised environment,
5 coordinated with the District and approved by the Board and requires
6 all staff who directly supervise students in before and after school
7 programs to possess appropriate knowledge and experience and receive
8 ongoing training; and

9 f. BP/AR 5145.3 Nondiscrimination/Harassment requires SFUSD to
10 implement measures to prevent discriminatory sexual harassment,
11 intimidation or retaliation in any school activity and in any act
12 occurring off campus or outside of school-related or school-sponsored
13 activities if it may impact or create a hostile environment at school.

14 26. As a result of their violations and breaches of the duty of care
15 Defendants owed to A.M. and due to the actions and inactions of Defendants'
16 employees and agents, REYES was permitted unfettered access to A.M. and other
17 minor students and groomed, sexually harassed, molested and sexually assaulted
18 A.M. and other students on the EMS campus during school hours and before and
19 after school in the Beacon Program from approximately January through March,
20 2024. On March 5, 2024, REYES lured A.M. to his apartment when she was on her
21 way to school and raped her. REYES was arrested and charged with statutory rape
22 and 7 other felonies. SFUSD and MISSION GRADUATES are vicariously liable for
23 the negligence of their employees and agents.

24 27. As a direct and legal result of the Defendants' conduct described herein,
25 Plaintiff A.M. has suffered, and will continue to suffer, physical injuries, great pain of
26 mind and body, shock, trauma, emotional distress, physical manifestations of
27 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss
28 of enjoyment of life, was prevented and will continue to be prevented from

1 performing daily activities and obtaining full enjoyment of life, and has incurred and
2 will continue to incur expenses for medical psychological treatment, therapy and
3 counseling.

4 28. As a further direct and legal result of the negligence, willfulness, intent,
5 carelessness, and recklessness of Defendants, and each of them, Plaintiff A.M. has
6 been required and will be required to obtain the services of physicians and
7 psychologists, obtain treatment and care, and incur medical and incidental expenses
8 in an amount to be proven at the time of trial of this action.

9 **SECOND CAUSE OF ACTION**
10 **(Intentional Infliction of Emotional Distress)**
11 **(v. REYES and DOES 51 - 70)**

12 29. Plaintiff hereby refers to and incorporates by this reference each of the
13 allegations set forth above and makes them part of this, the Second Cause of Action,
14 as though fully set forth herein.

15 30. The actions of Defendants REYES and DOES 51-70 as alleged herein
16 were outrageous, malicious, made in reckless disregard of the probability that
17 Plaintiff would suffer emotional distress, and intended to and did inflict emotional
18 distress and humiliation upon Plaintiff.

19 31. As a proximate result of Defendants' acts, Plaintiff has incurred
20 damages as alleged heretofore.

21 **THIRD CAUSE OF ACTION**
22 **(Negligent Hiring/Retention)**
23 **(v. SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES and DOES 1-50)**

24 32. Plaintiff hereby refers to and incorporates by this reference each of the
25 allegations set forth above and makes them part of this, the Third Cause of Action, as
26 though fully set forth herein.

27 33. Defendants, and each of them, had a duty not to hire and/or retain
28 REYES given his propensity to engage in abuse of students placed in his care, of
which Defendants knew or should have known about.

1 34. Plaintiff is informed and believes and thereon alleges that Defendants,
2 and each of them, knew or should have known that REYES was on probation for
3 violent crimes arising from an August, 2022 incident wherein REYES allegedly
4 assaulted a woman with a garden hoe and attacked a man with a glass shard.

5 35. Plaintiff is informed and believes and thereon alleges that Defendants,
6 and each of them, knew or should have known of REYES's propensity to engage in
7 abuse with students and/or that he was an unfit agent, and knew that REYES's
8 unfitness created a particular risk to others, including Plaintiff.

9 36. Plaintiff is informed and thereon alleges that REYES's unfitness
10 resulted in harm to Plaintiff during a period including the 2023/2024 school year,
11 when REYES used his position as an employee of Defendants, and each of them, with
12 access to minor students at EMS, to engage in abuse as herein alleged of Plaintiff,
13 resulting in injuries and damages to Plaintiff as alleged herein.

14 37. As a proximate result of Defendants' negligent acts, Plaintiff has
15 incurred damages as alleged heretofore.

16 **FOURTH CAUSE OF ACTION**
17 **(Negligent Supervision/Failure to Warn)**
18 **(v. SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES and DOES 1-50)**

19 38. Plaintiff hereby refers to and incorporates by this reference each of the
20 allegations set forth above and makes them part of this, the Fourth Cause of Action,
21 as though fully set forth herein.

22 39. Defendants SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES,
23 DOES 1-50, and each of them, had a duty to: provide adequate supervision of
24 REYES; use reasonable care in investigating complaints of inappropriate behavior by
25 REYES; take appropriate adverse employment actions against REYES as a result of
26 his tortious conduct; provide adequate supervision and protection to students at EMS
27 with whom Defendants, and each of them, allowed REYES to have contact; provide
28 adequate warnings to Plaintiff and Plaintiff's legal guardians, and other individuals

1 at the premises, regarding REYES's unfitness, predator, troubling and abnormal
2 behavior, dangerous propensities, and proclivities to engage in abuse of minor
3 students, at EMS, including Plaintiff.

4 40. Plaintiff is informed and believes and thereon alleges that Defendants,
5 and each of them, knew or should have known of REYES's dangerous and
6 exploitative propensities, that he was an unfit agent, and of his predator proclivities
7 to have abusive contact with minor students at EMS. It was reasonably foreseeable
8 that if Defendants breached the duty of care owed to students at EMS, including
9 Plaintiff, these children would be more vulnerable to abuse by REYES.

10 41. Plaintiff is informed and believes and thereon alleges that despite
11 having actual and/or constructive notice of REYES's predatory propensities to engage
12 in inappropriate sexualized misconduct with students, Defendants, and each of them,
13 negligently failed to supervise REYES, thereby allowing him the ability and
14 opportunity to access the minor Plaintiff to commit ongoing willful criminal acts
15 against Plaintiff.

16 42. Accordingly, Defendants, and each of them, failed to take reasonable
17 steps to prevent and avoid acts of abuse despite having actual and/or constructive
18 notice.

19 43. As a proximate result of Defendants' negligent acts, Plaintiff has
20 incurred damages as alleged heretofore.

21 **FIFTH CAUSE OF ACTION**
22 **(Battery)**
23 **(v. REYES and DOES 51-70)**

24 44. Plaintiff hereby refers to and incorporates by this reference each of the
25 allegations set forth above and makes them part of this, the Fifth Cause of Action, as
26 though fully set forth herein.

27 45. During the period including the 2023/2024 school year, Defendant
28 REYES used his MISSION GRADUATES position at EMS to engage in unpermitted,
harmful, offensive, and unlawful sexual contact and battery upon the person of

1 Plaintiff, a minor female student at the time.

2 46. Plaintiff did not consent to these acts of battery.

3 47. As a direct, legal, and proximate cause of the conduct of Defendants,
4 and each of them, as herein alleged above, Plaintiff was injured in her strength,
5 health, and activity, sustaining shock and injury to her nervous system, all of which
6 have caused, and will continue to cause Plaintiff great mental pain, embarrassment,
7 humiliation, distress, anguish and suffering, all to her damage in an amount to be
8 proven at the time of trial of this action.

9 48. As a further direct, legal, and proximate result of the conduct of
10 Defendants, and each of them, as herein alleged above, Plaintiff will be required to
11 obtain the services of physicians and psychologists, obtain treatment and care, and
12 incur medical and incidental expenses in an amount to be proven at the time of trial
13 of this action.

14 49. The acts of Defendants, and each of them, alleged above were done
15 maliciously, oppressively, and/or fraudulently, entitling Plaintiff to recover punitive
16 damages from Defendants REYES, and DOES 51-70, in an amount to be proven at
17 the time of trial of this action.

18 **SIXTH CAUSE OF ACTION**
19 **(Sexual Battery)**
20 **(Against REYES and DOES 51-70)**

21 50. Plaintiff hereby refers to and incorporates by this reference each of the
22 allegations set forth above and makes them part of this, the Sixth Cause of Action, as
23 though fully set forth herein.

24 51. Defendant REYES used his position with MISSION GRADUATES at
25 EMS to engage in unpermitted, offensive, and unlawful sexual contact and battery
26 upon the person of Plaintiff, who was a minor female student at the time.

27 52. Plaintiff did not consent to these acts of sexual battery.

28 53. Defendant REYES's conduct against Plaintiff constitutes sexual battery
within the meaning of California Civil Code Section 1708.5 and Penal Code Section

1 234.(b) and resulted in significant injuries and damages to Plaintiff.

2 54. The acts of sexual battery willfully committed by Defendant REYES
3 upon Plaintiff include but are not limited to raping the minor Plaintiff.

4 55. As a direct, legal, and proximate cause of the conduct of Defendants,
5 and each of them, as herein alleged above, Plaintiff was injured in her strength,
6 health, and activity, sustaining shock and injury to her nervous system, all of which
7 have caused, and will continue to cause Plaintiff great mental pain, trauma,
8 embarrassment, humiliation, distress, anguish and suffering, all to her damage in an
9 amount to be proven at the time of trial of this action.

10 56. As a further direct, legal, and proximate result of the conduct of
11 Defendants, and each of them, as herein alleged above, Plaintiff will be required to
12 obtain the services of physicians and psychologists, obtain treatment and care, and
13 incur medical and incidental expenses in an amount to be proven at the time of trial
14 of this action.

15 57. The acts of Defendants, and each of them, alleged above were done
16 maliciously, oppressively, and/or fraudulently, entitling Plaintiff to recover punitive
17 damages from Defendants REYES, and DOES 51-70, in an amount to be proven at
18 the time of trial of this action.

19 **SEVENTH CAUSE OF ACTION**
20 **(Failure to Perform Mandatory Duties)**
21 **(v. SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES and DOES 1-50)**

22 58. Plaintiff hereby refers to and incorporates by this reference each of the
23 allegations set forth above and makes them part of this, the Seventh Cause of Action,
24 as though fully set forth herein.

25 59. Defendants SFUSD, BLACKNELL, CASTRO, MISSION GRADUATES,
26 and DOES 1-50, and each of them, had a mandatory reporting duty imposed by
27 California Penal Code Sections 11164 *et seq.* at the time of Plaintiff's abuse.

28 60. Defendants' mandatory duties owed to Plaintiff pursuant to California

1 Penal Code Sections 11164 *et seq.* included promptly contacting law enforcement
2 and/or other appropriate administrative agencies to report all suspected child abuse.

3 61. On information and belief, prior to the unlawful sexual abuse and
4 sexual battery perpetrated upon Plaintiff, Defendants SFUSD, BLACKNELL,
5 CASTRO, MISSION GRADUATES, and DOES ONE through FIFTY, and each of
6 them, had actual and/or constructive notice of REYES's predatory proclivity to
7 engage in inappropriate sexual contact with minors.

8 62. Despite receiving actual and/or constructive notice regarding REYES's
9 predatory proclivity to engage in sexually abusive behavior of minors, Defendants
10 BLACKNELL, CASTRO and other administrators, employees, and staff members, all
11 within the course and scope of their employment with Defendants SFUSD, MISSION
12 GRADUATES and DOES 1-50, and each of them, failed to perform their mandatory
13 duties by failing to report all allegations of sexual assault, sexual abuse, and sexual
14 harassment to law enforcement as required by Calif. Penal Code Sections 11164 *et*
15 *seq.*

16 63. As a direct, legal, and proximate result of the negligence, willfulness,
17 intent, carelessness, and recklessness of Defendants, and each of them, Plaintiff was
18 injured in her strength, health, and activity, sustaining shock and injury to her
19 nervous system, all of which have caused, and will continue to cause Plaintiff great
20 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to her
21 damages in an amount to be proven at the time of trial of this action.

22 64. As a further direct, legal, and proximate result of the negligence,
23 willfulness, intent, carelessness, and recklessness of Defendants, and each of them,
24 Plaintiff was required to obtain the services of physicians and psychologists, obtain
25 treatment and care, and incur medical and incidental expenses in an amount to be
26 proven at the time of trial of this action.

1 **EIGHTH CAUSE OF ACTION**
2 **(Violation of Bane Act (Civ. Code § 52.1))**
3 **(v. All Defendants)**

4 65. Plaintiff hereby refers to and incorporates by this reference each of the
5 allegations set forth above and makes them part of this cause of action as though
6 fully set forth herein.

7 66. Defendants, and each of them, intentionally interfered with Plaintiff's
8 civil rights, including her right to be free from harassment and discrimination, by
9 threats, intimidation and coercion. In so doing, Defendants intended to deprive
10 Plaintiff of her enjoyment of the interests protected by these rights.

11 67. As a direct, legal, and proximate cause of the conduct of Defendants,
12 and each of them, as herein alleged above, Plaintiff was harmed as heretofore
13 alleged.

14 **NINTH CLAIM FOR RELIEF**
15 **(Violation of California Education Code §§ 200 *et seq.*)**
16 **(v. SFUSD)**

17 68. Plaintiff hereby refers to and incorporates by this reference each of the
18 allegations set forth above and makes them part of this cause of action as though
19 fully set forth herein..

20 69. California Education Code section 200 *et seq.* provides for a private right
21 of action for intentional discrimination on the basis of sex, which includes sexual
22 harassment.

23 70. Section 220 of the Education Code provides: "[n]o person shall be
24 subjected to discrimination on the basis of ...gender....in any program or activity
25 conducted by an educational institution that receives, or benefits from, state financial
26 assistance or enrolls pupils who receive state student financial aid."

27 71. The California legislature specifically declared its intent that an action
28 under the Education Code shall be interpreted as consistent with Title IX of the
Education Amendments of 1972, 20 USC 1681, *et seq.* (Cal. Ed. Code 201 (g)). A

1 plaintiff may maintain an action for monetary damages against a school district
2 when the plaintiff alleges that she suffered severe, pervasive and offensive
3 harassment that effectively deprived the plaintiff of the right of equal access to
4 educational benefits and opportunities; the school had actual knowledge of the
5 harassment; and the school responded with deliberate indifference. *Donovan v.*
6 *Poway Unified School Dist.* (2008) 167 Cal.App.4th 567.

7 72. The California legislature recognized that all pupils enrolled in the state
8 public schools have the inalienable right to attend classes on school campuses that
9 are safe, secure, and peaceful. Cal. Ed. Code 32261 (a), Article I, section 28 (c) of the
10 California State Constitution.

11 73. Defendant SFUSD was aware that REYES was grooming, sexually
12 harassing, molesting and assaulting A.M. and other minor students at EMS, but still
13 permitted REYES to have unsupervised access to A.M. for extended periods of time
14 during which REYES sexually harassed, molested and assaulted Plaintiff.

15 74. This type of sexual harassment is actionable because it is based on
16 A.M.'s gender and was so severe and pervasive that it had detrimental effect on
17 A.M.'s mental health and caused substantial interference with her ability to
18 participate in and benefit from educational programs, opportunities and benefits she
19 was entitled to.

20 75. REYES' sexual harassment, assault and molestation of A.M. occurred on
21 the EMS campus while SFUSD permitted REYES to have unsupervised access to
22 A.M. for extended periods of time during which REYES sexually harassed, molested
23 and assaulted A.M. and SFUSD staff did nothing to intervene.

24 76. On information and belief, SFUSD had actual knowledge of this ongoing
25 harassment but failed to act to stop it. The failure to halt harassment of which a
26 school district is aware constitutes intentional discrimination. *Franklin v. Gwinnet*
27 *County Public Schools* (1992) 502 U.S. 112.

28 77. Defendant's responsibility to address and respond to sexual harassment

1 applies regardless of the potential application of any harassment prevention policy
2 and regardless of whether a student has complained, asked the school to take action,
3 or identified the harassment as a form of discrimination. *See* U.S. Dept. of Education,
4 Office for Civil Rights, Dear Colleagues Letter, Oct. 26, 2010.

5 78. SFUSD failed in its responsibility to provide A.M. with an environment
6 free from discrimination and harassment and A.M. suffered severe psychological
7 trauma as a result.

8 79. SFUSD had control over REYES, the harasser, and the EMS campus
9 where the harassment occurred. SFUSD and its officials had authority to take
10 corrective action to end the discrimination and harassment, but failed to do so and
11 ignored ongoing instances of REYES grooming A.M. and other minor female students
12 at EMS and then taking them into an unsupervised area of the campus where he
13 molested, harassed and assaulted them.

14 80. A.M. suffered such severe, pervasive, and objectively offensive
15 harassment that it deprived her of access to the educational opportunities, programs
16 and benefits she was entitled to receive from SFUSD.

17 81. On information and belief, despite its actual knowledge of REYES'
18 sexual harassment of Plaintiff, SFUSD failed to supervise REYES and EMS students
19 and failed to monitor the EMS premises where the abuse was occurring. As a result
20 of SFUSD's actions and inactions, REYES continued to engage in the ongoing sexual
21 harassment, molestation and assault and, without intervention, REYES's behaviors
22 escalated and he ultimately raped A.M..

23 82. On information and belief, SFUSD was aware REYES was sexually
24 harassing, molesting and assaulting A.M. at EMS, but was deliberately indifferent to
25 the harassment and did not intervene to stop it.

26 **TENTH CAUSE OF ACTION**
27 **(Violation of Ralph Act (Civ. Code § 51.7)**
(v. REYES and DOES 51-70)

28 83. Plaintiff hereby refers to and incorporates by this reference each of the

1 allegations set forth above and makes them part of this cause of action as though
2 fully set forth herein.

3 84. Defendant REYES committed an act of violence against A.M. with a
4 substantial motivating reason being her sex.

5 85. As a direct, legal, and proximate cause of the conduct of Defendants,
6 and each of them, as herein alleged above, Plaintiff was harmed as heretofore
7 alleged.

8 WHEREFORE, Plaintiff prays judgment against Defendants, and each of
9 them, as follows:

- 10 a. For general (non-economic) damages as proved;
- 11 b. For special (economic) damages as proved;
- 12 c. For Attorneys' Fees;
- 13 d. For punitive damages as proved;
- 14 e. For pre-judgment interest as permitted by law;
- 15 f. For costs of suit; and
- 16 g. For such other and further relief as this Court may deem proper.

17 Dated: September 19, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER

18
19 By:  

20 VALERIE N. ROSE

21 JEFFREY A. CLAUSE

22 Attorneys for A.M., a minor, by and through
23 her Guardian Ad Litem, MARLON
24 ANTONIO CASTRO CRUZ
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury for all claims plead herein.

Dated: September 19, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER



By:

VALERIE N. ROSE

JEFFREY A. CLAUSE

Attorneys for A.M., a minor, by and through
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